IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No. 5016 of 2005

Date of decision: 13.9.2007

Deputy Commissioner, Muktsar and Others ... Petitioners

Versus

Presiding Officer, Labour Court,Bathinda and another ... Respondents

...

Present: Mr. H. S. Sethi, Advocate
for the petitioners.

Mr. Guarav Sharma, Advocate
for respondent no.2.

...

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE AJAI LAMBA

...

ADARSH KUMAR GOEL, J

This petition seeks quashing of the Award dated 18.1.2005, Annexure P-3 re-instating respondent no.2-workman with continuity of service and 75 per cent back wages.

Case of the workman was that he was employed as Sewadar at monthly salary of Rs.3,000/- with effect from 31.5.2000. His services were terminated on 25.9.2002 without inquiry and without compliance of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (for short, 'the Act').

The management contested the claim by pointing out that the workman was appointed on consolidated pay and since no sports activities were going on, District Olympic Association did not have funds to pay salary of the workman, his services were dispensed with. His appointment was on temporary basis and no other employee was employed after termination of his services.

The Labour Court held that the workman having worked for more than 240 days, there was violation of Section 25-F of the Act and the workman was entitled to the relief.

Learned counsel for the petitioner points out that a sum of Rs.46,300/- has already been paid to the workman as noted in the order dated 1.5.2006 of this Court. The workman was appointed only on temporary basis without complying with any Rules and Regulations. His appointment being temporary, termination of services as per contract of employment, was not covered by Section 2(oo) of the Act on account of exception (bb) to Section 2(oo) of the Act. In any case, re-instatement with back wages was not called for. Olympic Association did not have any office nor any activity and depends on grants received. Respondent No.2 was clearly aware that his appointment was on temporary/adhoc basis.

Learned counsel for the workman supported the impugned Award.

We have considered the rival submissions and also perused the record.

We may also refer to the law laid down by the Hon'ble Supreme Court in **Municipal Council, Samrala** v. **Raj Kumar**, (2006) 3 SCC 8, **State of U.P.** v. **Neeraj Awasthi** (2006) 1 SCC 667, **Reserve Bank of India** v. **Gopi Nath Sharma and another** (2006) 6 SCC 221 and **Gangadhar Pillai** v. **Siemens Ltd**. (2007) 1 SCC 533, that where appointment of workman is on adhoc/temporary basis and services are terminated in accordance with the contract of employment, the matter will fall under exception (bb) to Section 2(oo) of the Act and in such a situation, the termination of the workman would not be void.

Accordingly, we allow this petition and quash the impugned Award.

(Adarsh Kumar Goel)
Judge

(Ajai Lamba)
Judge

13.9.2007
RS